1: Fitzgerald H-5 (1937-1938) AE3 Sino-Tibetan
Border Peoples AE3

courts does not always conform to the enlightened ideas of the legislators. It may well be that an older spirit of compromise on the one hand, and of severity towards socially condemned crimes on the other, still pervades the law as it is applied from day to day. This is illustrated by the kind of sentence imposed for murders of different types. The murder of a near relative, father, mother, brother or sister, a crime abhorred by the Chinese, is punished with death. But the murder of one who is not related to the criminal, even though the crime may have very little palliating or extenuating circumstances, is often only punished by a sentence of five or six years' imprisonment. The prisons of Yunnan are for the most part well below the standard which the government desires to see enforced, and a sentence of some years in prison is therefore not so light as it may seem.

Civil disputes and lawsuits not involving criminal offences come under the jurisdiction of the Branch High Court situated at Ta Li. This type of jurisdiction is of course part of the reforms instituted by the Republic, and the law applied is the new reformed civil code. The Branch High Court has jurisdiction over a much wider area than the *Hsien* of Ta Li itself, for it covers all civil cases of importance brought in the *Hsien* between Pao Shan in the west, Li Chiang in the north, Meng Hua southwards, and Ch'u Hsiung to the east. These places, the nearest to have Branch High Courts themselves, are each about a hundred miles from Ta Li. A civil dispute arising in Erh Yuan or Chien Ch'uan has thus to be brought before the Ta Li Branch High Court, if the parties cannot compose their differences with the aid of arbitrators. The Min Chia, like the Chinese, are not at all a litigious people, always preferring to settle their disputes by arbitration if possible, and only resorting to the courts in the last instance. The cost of litigation in the civil courts, though not high by European standards, is a further deterrent. The ad-

Mewu

124 judgment. In any case, he had had no particularly bad experiences during all the years of his contact with the Fantzu, although this happens very often to Chinese because they find it hard to suppress a certain conceit toward peoples of other cultures.

888 My interpreter described the Mewu-Fantzu as generally sincere,
181 courteous and hospitable. They do not get angry very easily; they
577 are faithful in friendship and are very willing to help each other, but being a Chinese, my interpreter was very scornful of their lack of piety toward their parents. It can happen that an adult son refuses to take his parents into his tent, which is why one sometimes sees old people begging at the temples or burial places. Even wealthy people sometimes treat their parents badly. The Fantzu do not often lie, nor do they incline to boasting; on the contrary, they try to belittle their property, and they put little value on "face." Even wealthy people wear dirty clothes, and sometimes even beg. They do not forget insults. In business the Fantzu are less reliable than the Chinese. They often do not keep their promises, and sometimes they forget to pay.

683 The most common crimes are: theft, plunder, the infliction of
754 bodily injuries, and - in the opinion of the Fantzu themselves - black magic.

671 Common law, not written down, is the law of the Fantzu. The
692a 'ou-mu, to whom all the more serious legal cases are presented, decides according to his judgment, usually with the approval of the heads of the ts'aowa groups.

685 According to my interpreter, the Fantzu do not have a tendency to theft, at any rate they do not rob each other. /80/ If they accept a stranger in their midst, (1) they do not steal from him or rob

1. as in the case of the author who was recommended to the Mewu Lamasery by the Labrang Lamasery.

him, especially not when he is a guest in a tent or house.

[123] Inconsistent though it seemed, my interpreter was always very
685 careful about guarding my belongings which were, as far as possible, stored in the tent in such a way that they could not be easily got at from the outside. An American missionary assured me that this precaution was justified, for he had lived a great deal among the Fantzu and had often been robbed. Nevertheless, my interpreter's insistence that the Fantzu do not tend to steal is only an apparent contradiction. Wherever primitive ideas of justice prevail, stealing from strangers is probably judged on a different moral basis than

theft among members of one's own group. Even very primitive peoples like the pygmies of the Congo jungle are extremely honest among one another, whereas as soon as they come into contact with farming Negroes, they quickly develop into positively virtuoso thieves. (2) There are probably easy transitions from this stage to

2. Gusinde 13).

the abuse of travelers by the extortionist tourist industry in civilized countries, which is not regarded as criminal any more than the robbing of strangers among primitives.

If a thief is caught and confesses his crime at once, his only punishment consists in his being forced to return or replace the stolen goods, provided the victim of the theft does not belong to the same ts'aowa group. If the thief will not confess his crime, he can be brought before the court of the t'ou-mu and he can be tortured into confession. In this case, too, the punishment is no more severe. If the victim who was robbed belongs to the same ts'aowa group, the thief must pay him back two or three times the value of the goods stolen, just as though he were /81/ a lama, whereas, as mentioned before, a t'ou-mu or an incarnation must be repaid ninefold. (1)

1. Cf. the same conditions among the Bedouins; Musil 14); or wergild in medieval Europe.

Outside their tribal territory all Fantzu tend to rob, especially travelers. However, robberies no longer occur as much among the Mewu-Fantzu as among tribes living farther in the interior of Tibet, where robberies are the order of the day. According to my interpreter, the Fantzu do not generally shoot or become violent in a sudden attack if one does not offer resistance. In that respect they would not act differently from Chinese robbers, although this is contrary to the experiences of many travelers. (2)

2. For example, a farmer from the province of Szechuan described such conduct of robbers to me as "polite" (k'e-ch'i), whereas it would be "impolite" in his opinion and contrary to good form if people who did not offer resistance were shot at (this does not mean warning shots), or if they were attacked in any other way.